

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**FLORIO FOOD CORP. D/B/A  
CANNOLI FACTORY**

**and**

**Case 29-CA-187620**

**LOCAL 713 INTERNATIONAL BROTHERHOOD  
OF TRADE UNIONS, I.L.A., AFL-CIO**

**ORDER**

The General Counsel's request for special permission to appeal Administrative Law Judge Kenneth W. Chu's Order Partially Denying Respondent Florio Food's Motion for a Bill of Particulars is granted. On appeal, the judge's ruling granting the motion in part is reversed.

In granting the Respondent's motion in part, the judge found that paragraph 9 of the complaint failed to meet the requirements of Section 102.15 of the Board's Rules and Regulations. That section states that a complaint will contain "(a) a clear and concise statement of the facts upon which assertion of jurisdiction by the Board is predicated, and (b) a clear and concise description of the acts which are claimed to constitute unfair labor practices, including, where known, the approximate dates and places of such acts and the names of respondent's agents or other representatives by whom committed."

Contrary to the judge, we find that the complaint in this proceeding, as written, meets those requirements. The complaint states, in relevant respects, the following:

8. (a) About June 10, 2016, Respondent discharged its employee Gloria Lemus.  
(b) Since June 10, 2016, Respondent has failed and refused to reinstate or offer to reinstate Lemus to her prior position of employment.
9. Respondent engaged in the conduct described above in paragraph 8 because Lemus supported the Union and engaged in concerted activities, and to

discourage employees from engaging in these activities.

10. By the conduct described above in paragraphs 8 and 9, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

Paragraph 8 of the complaint thus “clearly and concisely” describes the “acts ... claimed to constitute unfair labor practices”—the discharge of Lemus and the failure to reinstate or offer to reinstate Lemus—as well as the date of the alleged unlawful conduct—June 10, 2016, as required by Section 102.15.

The judge concluded, however, that paragraph 9 did not conform to the Board’s pleading requirements under Section 102.15, because it did not contain the dates and the location of the alleged discriminatee’s union and concerted activity. We disagree. As noted above, Section 102.15 requires, where known, the approximate dates and places of the respondent’s unlawful acts, not the actions of the alleged discriminatee. Thus, more specificity is not required with respect to that paragraph.

In *Artesia Ready Mix Concrete, Inc.*, 339 NLRB 1224, 1226 (2003), the Board cited with approval the explanation of the role of Board complaints articulated by the Court of Appeals for the Sixth Circuit, in *NLRB v. Piqua Munising Wood Products Co.*, 109 F.2d 552, 557 (6th Cir. 1940):

The sole function of the complaint is to advise the respondent of the charges constituting unfair labor practices as defined in the Act, that he may have due notice and a full opportunity for hearing thereon. The Act does not require the particularity of pleading of an indictment or information, nor the elements of a cause like a declaration at law or a bill in equity. All that is requisite in a valid complaint before the Board is that there be a plain statement of the things claimed to constitute an unfair labor practice that respondent may be put upon his defense.

We find that the complaint here meets that standard, as it advises the Respondent, in plain language, that which is claimed to constitute the unfair labor practice—the discharge of Lemus and the failure to reinstate her, and the dates on which those actions allegedly occurred.<sup>1</sup>

Accordingly, the General Counsel’s request for special permission to appeal the administrative law judge’s partial denial of the Respondent’s Motion for a Bill of

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<sup>1</sup> *Plaza Properties of Michigan, Inc.*, 340 NLRB 983 (2003), cited by the judge, is not to the contrary. There a Board denied a motion for default judgment based in part on insufficient complaint allegations that failed to allege which respondents committed which violations and the dates on which the violations were alleged to have occurred. As discussed above, the complaint here does not fail to allege such facts regarding the Respondent’s conduct.

Particulars is granted, and we reverse his ruling ordering the General Counsel to produce information on the dates and locations as to when Lemus engaged in concerted activity and conduct in support of the Union.

Dated, Washington, D.C., April 18, 2017.

PHILIP A. MISCIMARRA,      ACTING CHAIRMAN

MARK GASTON PEARCE,              MEMBER

LAUREN McFERRAN,              MEMBER